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8 Attorneys for Plaintiff  
9 De Sol Corp., Inc.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 (San Francisco Division)

13 De Sol Corp., Inc., a California corporation,

14 Plaintiff,

15 vs.

16 Vegas Connection, Inc., a California  
17 corporation; Omar Awad, an individual;  
18 Jahangir Shahriari, an individual,

19 Defendants.

Case No.

**COMPLAINT FOR MONEY  
(PAYMENTS DUE ON PERISHABLE  
AGRICULTURE)**

**DEMAND FOR JURY TRIAL**

20 Plaintiff De Sol Corp., Inc. alleges as follows:

21 **I. THE PARTIES**

22 1. De Sol Corp., Inc. is a corporation organized under the laws of the State of  
23 California, with its principal place of business located in San Mateo, California.

24 2. On information and belief, Vegas Connection, Inc. is a California corporation that  
25 owns and operates a perishable produce business located at 800 McGarry St., #4, Los Angeles,  
26 California.

27 3. On information and belief, Omar Awad is an individual residing in Los Angeles,  
28 California.



1 after the shipments arrived at Defendants' location, after Defendants had an opportunity to  
2 inspect the quantity and quality of said produce.

3 12. Despite Defendants' receipt of the produce and subsequent resale of the produce  
4 for a profit, Defendants have refused, and continue to refuse, to pay Plaintiff the amounts owed  
5 on approximately twenty five (25) invoices, for a total amount owed of \$151,181.77. Attached  
6 hereto as Exhibit A, and incorporated herein by this reference, is a copy of a summary of  
7 outstanding invoices prepared by Plaintiff. Some of the amount referenced in this summary has  
8 been paid by Defendants, leaving a total amount due of \$151,181.77.

9 13. Attached hereto as Exhibit B, and incorporated herein by this reference, is a copy  
10 of unpaid invoice No. 1173 dated May 3, 2007, for produce Plaintiff sold to Defendants.

11 14. Exhibit B is a representative sample of the outstanding invoices referenced in  
12 Exhibit A. The invoices contain the Perishable Agricultural Commodities Act ("PACA") trust  
13 language giving Defendants notice of Plaintiff's intent to assert its PACA trust rights until those  
14 invoices are paid in full, and each invoice contains interest and attorney's fees language in the  
15 event payments are not received and collection activity becomes necessary.

16 15. As a result of Defendants' failure to pay those invoices, Plaintiff now owes those  
17 amounts to farmers and suppliers in Mexico, causing Plaintiff's business significant financial  
18 hardship and difficulty for Plaintiff in satisfying those obligations.

#### 19 IV. CLAIMS FOR RELIEF

##### 20 CLAIM I

21 (Enforcement of Payment from Trust – 7 U.S.C. § 499e(c))

22 16. Plaintiff repeats and realleges, as if fully set forth, the allegations contained in  
23 paragraphs 1 through 15.

24 17. Plaintiff is the trust beneficiary of a trust created by the Perishable Agricultural  
25  
26  
27

1 Commodities Act ("PACA"), 7 U.S.C. § 499e(c). Under the PACA, the seller of perishable  
2 commodities retains a trust claim over the commodities sold and any receivables or proceeds  
3 from the sale of those commodities until the seller receives full payment.

4 18. Defendants have refused and continue to refuse to pay Plaintiff for the produce  
5 invoices identified above, totaling \$151,181.77 for produce Plaintiff actually delivered to  
6 Defendants' location in Los Angeles. Plaintiff therefore retains a trust claim over Defendants'  
7 assets in that amount.

8 19. Plaintiff preserved the benefits of the trust in accordance with 7 U.S.C. §  
9 499e(c)(4). Each of the outstanding invoices contains the requisite trust language of that section,  
10 and each invoice was promptly delivered to Defendants upon their receipt, inspection, and  
11 approval of the produce.

12 20. Plaintiff has therefore been damaged in the amount of \$151,181.77 related to the  
13 unpaid invoices and Defendants currently hold this amount in trust for the benefit of Plaintiff.

14 21. In addition to the amount above, Plaintiff seeks to recover its costs, attorney's  
15 fees, and interest, to the extent permitted by law, pursuant to the terms contained in each invoice,  
16 which memorialized the agreement between the parties.

17 **CLAIM II**

18 (Violation of 7 U.S.C. § 499b)

19 22. Plaintiff repeats and realleges, as if fully set forth, the allegations contained in  
20 paragraphs 1 through 21.

21 23. Defendants violated 7 U.S.C. § 499b(4) by refusing to make payments to Plaintiff  
22 for produce Plaintiff actually delivered to Defendants, as set forth above. The unpaid invoices  
23 are connected to and arise out of the aforementioned perishable commodity transactions, and  
24 nonpayment constitutes unlawful and unfair conduct under the PACA.

25 24. Plaintiff has therefore been damaged in the amount of \$151,181.77 related to the  
26 unpaid invoices.

1           25. In addition to the amount above, Plaintiff seeks to recover its costs, attorney's  
2 fees, and interest, to the extent permitted by law, pursuant to the terms contained in each invoice,  
3 which memorialized the agreement between the parties.

4                                   **CLAIM III**

5                   (Breach of Fiduciary Duty – as against Omar Awad and Jahangir Shahriari)

6           26. Plaintiff repeats and realleges, as if fully set forth, the allegations contained in  
7 paragraphs 1 through 25.

8           27. Plaintiff is informed and believes and thereon alleges that Defendants Omar Awad  
9 and Jahangir Shahriari at all relevant times were in a position at Vegas Connection, Inc. to  
10 control the PACA trust assets referenced above, and breached their fiduciary duty by failing to  
11 preserve those assets for Plaintiff's benefit. The PACA imposes personal liability against  
12 individuals who use the trust assets for any purpose other than repayment of the supplier.  
13 Plaintiff is informed and believes that these Defendants used the trust assets for purposes other  
14 than repayment of the amounts owed on the invoices referenced herein.

15           28. As a direct result of Omar Awad's and Jahangir Shahriari's breach of fiduciary  
16 duty as the trustees of those assets, Plaintiff has been damaged in the amount of \$151,181.77.

17           29. In addition to the amount above, Plaintiff seeks to recover its costs, attorney's  
18 fees, and interest, to the extent permitted by law, pursuant to the terms contained in each invoice,  
19 which memorialized the agreement between the parties.

20                                   **CLAIM IV**

21                   (Breach of Contract – Unpaid Bills of Lading/Invoices)

22           30. Plaintiff repeats and realleges, as if fully set forth, the allegations contained in  
23 paragraphs 1 through 29.

24           31. Plaintiff and Defendant Vegas Connection entered into various contracts for the  
25 delivery of produce to Defendant's place of business in Los Angeles, as indicated above. The  
26  
27

1 specific contracts Defendant breached are represented by bills of lading for each produce  
2 shipment and by the unpaid invoices referenced above, totaling \$151,181.77.

3 32. The contracts were formed when Plaintiff, typically one or two days before  
4 delivery, informed Defendant of the market rate for the produce it wanted delivered. If  
5 Defendant was agreeable to that rate and quantity, Plaintiff purchased the produce and had it  
6 delivered to Defendant's location.

7 33. The terms of each contract are spelled out in each invoice, with payment to  
8 Plaintiff typically due no later than seven (7) days after deliveries were completed.

9 34. Defendant accepted the produce referenced in each unpaid invoice and Plaintiff is  
10 in possession of a bill of lading for each invoice signed by Defendant as received.

11 35. Plaintiff did all, or substantially all, of the significant things that the contracts  
12 required it to do. Specifically, Plaintiff acquired the quantity and quality of produce Defendant  
13 ordered, and promptly delivered said produce to Defendant as agreed. All of the conditions for  
14 Defendant's performance have occurred. Defendant breached the contracts by failing to pay on  
15 or before the due dates, and by continuing, to this day, to refuse to pay those amounts.

16 36. Plaintiff has therefore been damaged in the amount of \$151,181.77.

17 37. In addition to the amount above, Plaintiff seeks to recover its costs, attorney's  
18 fees, and interest, to the extent permitted by law, pursuant to the terms contained in each invoice,  
19 which memorialized the agreement between the parties.

20 **CLAIM V**

21 (Open Book Account)

22 38. Plaintiff repeats and realleges, as if fully set forth, the allegations contained in  
23 paragraphs 1 through 37.

24 39. In or about June and July 2007, Plaintiff created and delivered to Defendants in  
25 writing a book account showing that Defendants are indebted to Plaintiff in the amount of  
26 \$151,181.77 for produce Plaintiff sold and delivered to Defendant Vegas Connection. At the  
27

1 same time, Plaintiff delivered additional copies of all outstanding invoices to Defendants which  
2 reflects the amount demanded herein.

3 40. Neither the whole sum nor any part of the book account has been paid, although  
4 demand has been made for its payment, and Defendants have repeatedly promised payment. Said  
5 book account and invoices constitute the principal record of transactions between Plaintiff and  
6 Defendants.

7 41. Consequently, there is now due, owing and unpaid from Defendants the sum of  
8 \$151,181.77.

9 42. In addition to the amount above, Plaintiff seeks to recover its costs, attorney's  
10 fees, and interest, to the extent permitted by law, pursuant to the terms contained in each invoice,  
11 which memorialized the agreement between the parties.

12 **CLAIM VI**

13 (Quantum Meruit)

14 43. Plaintiff repeats and realleges, as if fully set forth, the allegations contained in  
15 paragraphs 1 through 42.

16 44. Between January and June 2007 Plaintiff rendered services to Defendants as a  
17 licensed seller of perishable produce under the PACA, and delivered goods to Defendants in the  
18 form of said perishable produce.

19 45. The reasonable value of the goods and services rendered by Plaintiff on account of  
20 Defendants, and each of them, is, and at all relevant times herein mentioned was, the sum of  
21 \$151,181.77.

22 46. Neither the whole sum nor any part of the sum has been paid, although demand  
23 has been made for its payment, and Defendants, and each of them, have repeatedly promised  
24 payment.

25 47. There is now due, owing and unpaid from Defendants, and each of them, to  
26 Plaintiff this sum, plus costs, attorney's fees, and interest, to the extent permitted by law,  
27

1 pursuant to the terms contained in each invoice, which memorialized the agreement between the  
2 parties.

3 **V. PRAYER FOR RELIEF**


4 WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- 5 1. Damages in the amount of \$151,181.77;
- 6 2. Pre-judgment interest;
- 7 3. Attorney's fees;
- 8 4. Costs of suit; and
- 9 5. For such other relief as the Court deems proper.

10  
11  
12 DATED: August 8, 2007

GREENE, CHAUVEL, DESCALSO & MINOLETTI

13  
14 BY:

  
RONALD C. CHAUVEL

BRANDON L. REEVES

Attorneys for Plaintiff  
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**De Sol Corp.**  
**Statement**  
**As of July 6, 2007**

<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>P. O. #</u>	<u>Terms</u>	<u>Due Date</u>	<u>Aging</u>	<u>Open Balance</u>
Invoice	01/15/2007	1009S		Due 7	01/22/2007	165	3,441.40
Invoice	03/04/2007	1049		DUE 7	03/11/2007	117	4,192.50
Invoice	03/14/2007	1062		DUE 7	03/21/2007	107	610.40
Invoice	03/21/2007	1076		DUE 7	03/28/2007	100	126.00
Invoice	05/03/2007	1173		DUE 7	05/10/2007	57	11,327.15
Invoice	05/04/2007	1189		DUE 7	05/11/2007	56	2,940.00
Invoice	05/07/2007	1178		DUE 7	05/14/2007	53	3,717.00
Invoice	05/07/2007	1179		DUE 7	05/14/2007	53	15,052.14
Invoice	05/09/2007	1208		DUE 7	05/16/2007	51	10,621.51
Invoice	05/09/2007	1209		DUE 7	05/16/2007	51	7,980.00
Invoice	05/14/2007	1217		DUE 7	05/21/2007	46	3,150.00
Invoice	05/14/2007	1224		DUE 7	05/21/2007	46	17,497.77
Invoice	05/16/2007	1225		DUE 7	05/23/2007	44	10,166.00
Invoice	05/16/2007	1238		DUE 7	05/23/2007	44	1,295.00
Invoice	05/23/2007	1277		DUE 7	05/30/2007	37	647.50
Invoice	05/23/2007	1368		DUE 7	05/30/2007	37	3,089.50
Invoice	05/25/2007	1281		DUE 7	06/01/2007	35	17,745.39
Invoice	05/25/2007	1319		DUE 7	06/01/2007	35	9,404.00
Invoice	05/25/2007	1321		DUE 7	06/01/2007	35	6,253.95
Invoice	05/28/2007	1257		DUE 7	06/04/2007	32	4,996.95
Invoice	05/28/2007	1348		DUE 7	06/04/2007	32	3,885.00
Invoice	05/29/2007	1328		DUE 7	06/05/2007	31	1,942.50
Invoice	06/04/2007	1391		DUE 7	06/11/2007	25	2,268.00
Invoice	06/05/2007	1364		DUE 7	06/12/2007	24	8,648.00
Invoice	06/11/2007	1450		DUE 7	06/18/2007	18	546.00
Invoice	6/11/2007	287903		DUE 7	06/18/2007	18	1,740.00
Total VEGAS CONECTION							<u>153,283.66</u>
TOTAL							<u>153,283.66</u>

EXHIBIT "A"

**De Sol Corp.**

235 3rd Ave., Suite No.203  
 San Mateo, CA 94002-4402  
 562.652.6447 Telephone  
 650.342.7429 Fax

**Invoice**

<b>Bill To</b>
VEGAS CONECCION 800 McGarry St #4 Los Angeles CA 90021

<b>Date</b>	<b>Invoice #</b>
5/3/2007	1173

<b>P.O. Number</b>	<b>Terms</b>	<b>Ship</b>	<b>Via</b>	<b>Due Date</b>
	DUE 7	5/3/2007	SEVERO	5/10/2007

Cases	Quantity	Class	Description	Price	Amount
304	5,864	764S	MILPERO, HUSK TOMATILLO MINI	0.35	2,052.40
25	597	764S	MEXICAN CANDY(DULCE MEXICANO)	1.80	1,074.60
10	290	764S	CAMOTE DE MIEL	1.50	435.00
576	576	764S	GREEN UNION(CEBOLLITA MEXICANA)	5.25	3,024.00
176	4,367	764S	BANANA LEAF(HOJA PLATANO)	0.65	2,838.55
50	50	764S	CHAYOTE SPIKE (CHAYOTE ESPINA)	12.00	600.00
49	2,171	764S	XOCONOZTLE	0.60	1,302.60
10	10	764S	CACTUS LEAF(FRESH)	0.00	0.00
<b>EXHIBIT "B"</b>					

All claims and returned goods MUST be made within 24 hrs, accompanied by the bills.  
 Past due accounts subject to interest charges of 1 1/2% per month, maximum 18% per annum.  
 Buyers agrees to pay reasonable collectio cost, reasonable attorney fees ans actual court costs  
 if such be incurred in the collection of this account. The perishable agricultural commodities  
 listed on the invoice are sold subject to the statutory trut authorized by section 5c of the  
 Perishable Agricultural Commodities Act 1930 (7 U.S.C 499c). The seller of these commodities  
 retains a trust claim over these commodities, all inventories of food or other products derived  
 from these commodities, and any receivabes or proceeds from the sales of these commodities until  
 full payment is received

<b>Total</b>	<b>\$11,327.15</b>
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